

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 359

January 26, 2021

SUMMARY OF BILL: Requires state agencies to precede non-emergency rulemaking with notice and a public hearing unless the proposed rule is promulgated as a direct informal rule. Defines “direct informal rule” as an administrative rule that makes minor, nonsubstantive changes that do not affect a person’s rights or impose fees, penalties, or fines.

Authorizes an agency to promulgate a direct informal rule only when the rule makes a minor, nonsubstantive change, is approved by the Joint Government Operations Committee, repeals a rule, or eliminates or reduces a fee. Authorizes a person to file a suit directly to the chancery court in their county of residence to enjoin enforcement of a rule when the rule is not adopted in compliance with the Uniform Administrative Procedures Act (the Act).

ESTIMATED FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- Pursuant to Tenn. Code Ann. § 4-5-202(a), an agency is exempt from preceding nonemergency rulemaking with a public hearing unless a petition is filed by 10 people affected by the rule, an association of 10 people, a municipality, or by majority vote of any committee of the General Assembly.
- The proposed legislation establishes that only direct informal rules may be exempt from public hearings if a petition for such hearing is not received.
- Any non-emergency rule promulgated by a state agency that affects the rights of a person, imposes fees, penalties or fines, or is otherwise deemed significant in any way will be not be authorized without a public hearing.
- Several state agencies currently hold a public hearing for substantial rulemaking. Any state agency that does not currently hold a public hearing for substantial rulemaking can conduct any additional required hearings within existing resources.
- The Joint Government Operations Committee meets throughout the year; therefore, any approval of direct informal rules will not require additional meetings and can be accomplished within existing resources.
- Pursuant to Tenn. Code Ann. § 4-5-211, the Attorney General and Reporter (AG) is required to review the legality and constitutionality of every rule filed pursuant to the Act.

- Authorizing a person to file a suit to enjoin enforcement of a rule when the rule is not adopted in compliance with the Act is not estimated to result in a significant number of court proceedings or cases in local chancery courts.
- No significant fiscal impact to state or local government.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Bojan Savic". The signature is written in a cursive, flowing style.

Bojan Savic, Interim Executive Director

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